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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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FABIEN BATTINI

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JOSEPH S TRIPOLI
THOMSON MULTIMEDIA LICENSING INC
CN 5312
PRINCETON, NJ 08543-0028

EXAMINER

SHIMIZU, MATSUICHIRO

ART UNIT

PAPER NUMBER

2635

12

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/509,969

Applicant(s)

BATTINI ET AL.

Examiner

Matsuichiro Shimizu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

The examiner acknowledges currently amended claims 1, 8 and 10.

Response to Arguments

Applicant's arguments filed on 4/9/2004 have been fully considered and examiners response is provided as follows:

Regarding applicant's argument (lines 7-16, page 5), the examiner maintains that since it has been held that the recitation that an element in claims 1 and 10 is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform, and it does not constitute a limitation in any patentable sense (re Hutchison, 69 USPQ 138), and therefore, Humpleman teaches the control device is capable to use descriptors of a plurality of appliances to aggregate appliance control functions of the same type for a plurality of appliances (Fig. 11, col. 16, lines 43-49, note; Dads TV and Jims TV having same type of function controls or aggregate control; like, volume control in Dads TV and Jims TV, channel selection in Dads TV and Jims TV, wherein displaying aggregate control of Dads TV and Jims TV (Fig. 11).

Regarding applicant's argument (line 17, page 5 to line 7, page 6; lines 1-6, page 8), the examiner maintains Humpleman does disclose GUI associated with PC including microprocessor (col. 6, lines 5-9) wherein application programs are executing to render HTML pages into a single page on the screen (col. 6, lines 5-9). Furthermore, Humpleman does disclose same type of appliances, like equipments associated with home entertainment (Fig. 11, col. 16, lines 43-49, note; Dads TV and Jims TV having same type of function controls or aggregate control; like, volume control in Dads TV and Jims TV, channel selection in Dads TV and Jims TV, wherein displaying aggregate control of Dads TV and Jims TV (Fig. 11) is made by choosing display of controlling

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functions of Dads TV and Jims TV from available devices (Fig. 11, col. 16, lines 43–49) in a page (col. 16, lines 43–49, display of two TVs (col. 16, lines 43–49, Dad's TV and Jim's TV), wherein operation is independent) as disclosed in claim 1.

In responding to applicant's argument (lines 7–23, page 6) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (a single page display of volume controls associated with all appliances) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, the rejection of claims 1–3 and 5–12 follows:

Claim Rejections – 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The addition of the word “type” in claims 1, 8 and 10 to an otherwise definite expression extends the scope of the expression so as to render it indefinite and therefore, claims 1, 8 and 10 are rejected under the second paragraph of 35 U.S.C. 112 (see MPEP 2173.05(b)E).

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such

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that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman et al. (6,198,479).

Regarding claim 1, Humpleman discloses control device in a home network (col. 1, lines 18-21, apparatus for performing services on browser based home networks for controlling home devices or appliances) including a plurality of appliances (col. 2, lines 31-46, a first and a second home devices), wherein each appliance has an associated descriptor (col. 4, lines 12-28, associated HTML page or pages for each appliance) comprising information (applicant's specification—lines 35-37, page 6; audio volume settings for the appliances) for controlling said appliance, said device including: microprocessor (col. 6, lines 4-9, microprocessor associated with PC (note: see pp 307 of Computer Dictionary, 3rd Edition, MicroSoft Press, 1997)) for loading and processing descriptors associated with the appliances wherein said descriptors each comprise at least one control function of a respective appliance (Fig. 11, col. 17, lines 46-62, DVD and TV; col. 2, lines 31-46, a first and a second home devices), and a corresponding control function type (Fig. 11, col. 17, lines 46-62, DVD and TV; col. 2, lines 60-65, HTML coded graphics user interface object including a page containing device buttons), a graphic generator for generating a display of markup language pages or page parts based on said descriptors (Fig. 11, col. 17, lines 46-62, DVD and TV; col. 2, lines 60-65, HTML coded graphics user interface include a page containing buttons from two devices), said control device adapted to use descriptors of a plurality

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of appliances to recognize and aggregate appliance control functions for a plurality of appliances (col. 4, lines 19–28, providing users with a plurality of GUI for commanding and controlling home devices; Fig. 11, col. 17, lines 46–62, DVD and TV), in order to display said aggregated functions on a single markup language page (Fig. 11, col. 17, lines 46–62, DVD and TV). But Humpleman does not disclose said control device adapted to use descriptors of a plurality of appliances to recognize and aggregate appliance control functions of the same type for a plurality of appliances.

However, Humpleman does disclose, in the art of network system, same type of appliances (Fig. 11, col. 16, lines 13–49, Dads TV and Jims TV are operating independently). Furthermore, one of ordinary skill in the art recognizes displaying control of Dads TV and Jims TV is a matter of choice as choosing display of controlling functions of DVD and TV in a page (col. 2, lines 60–65 and col. 16, lines 13–49, HTML coded graphics user interface include a page containing buttons from two devices). Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include aggregate appliance control functions of the same type for a plurality of appliances in the device of Humpleman because one ordinary skill in the art recognizes said control device adapted to use descriptors of a plurality of appliances to recognize and aggregate appliance control functions of the same type for Dads TV and Jims TV is a matter of choice as choosing display of controlling functions of DVD and TV in a page.

Regarding claim 2, Humpleman discloses, as disclosed in claim 1, device wherein said microprocessor (col. 6, lines 4–9, microprocessor associated with PC (note: see pp 307 of Computer Dictionary, 3rd Edition, MicroSoft Press, 1997)) is programmed to load a descriptor directly from the appliance with which it is

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associated, said descriptor being stored in a memory in this appliance (col. 6, line 57 to col. 7, line 6, each home device sends its custom GUI to memory of the browser based DTV (102), wherein the user uses GUI to activate the home device remotely).

Regarding claim 3, Humpleman discloses, as disclosed in claim 1, wherein said microprocessor (col. 6, lines 4–9, microprocessor associated with PC (note: see pp 307 of Computer Dictionary, 3rd Edition, MicroSoft Press, 1997)) is programmed to load descriptor from an intranet server associated with home network (col. 18, lines 54–60, a session server containing many HTML files). But Humpleman does not disclose internet server located on a different network from said home network the address of the descriptor being loaded from the appliance with which the descriptor is associated.

However, Humpleman does disclose, in the art of network system, internet outside of home network to remotely control home devices (col. 20, lines 42–62, connecting the home network to the Internet). Furthermore, one of ordinary skill in the art recognizes since internet network is two way communication system, internet communicating to home network is interchanged to provide home network communicating to internet. Therefore, internet address in the manufacture's appliance is available just as home network address for the home appliance. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include internet server located on a different network from said home network the address of the descriptor being loaded from the appliance with which the descriptor is associated.

in the device of Humpleman because one ordinary skill in the art recognizes internet server located on a different network from said home network the address of the descriptor

being loaded from the appliance with which the descriptor is associated for providing wide area of appliance choice.

Regarding claim 5, Humpleman discloses, as disclosed in claim 1, wherein said descriptor contains at least one of the following functions: display of static information relating to the appliance, display of dynamic information relating to the appliance, or display of an object for controlling a function of the appliance (Fig. 13, col. 18, lines 43–60, static info for PWR, dynamic info for volume, object for DVCR or DTV).

Regarding claim 6, Humpleman discloses, as disclosed in claim 5, device wherein, when said descriptor contains an object for controlling a function of an appliance, as well as a program for generating a corresponding command to be transmitted to the appliance with which the set is associated (Fig. 13, col. 18, lines 43–60, command for increase or decrease of audio volume)..

Regarding claim 7, Humpleman discloses, as disclosed in claim 1, device wherein said descriptor comprises configuration data identifying an appliance as a source or receiver of a data type, said microprocessor being programmed to create at least one configuration page for allowing the user to specify the connections between appliances, and wherein the at least one configuration page indicates possible connections (Fig. 13, col. 20, lines 23–40, selecting play command in DVCR page provide the display on connected DTV).

All subject matters associated with method in claim 8 are disclosed in claims 1 and 7, and therefore, rejections of the subject matters expressed in claim 8 are met by references and associated arguments applied to rejections of claims 1 and 7.

All subject matters associated with method in claim 9 are disclosed in claim 3, and therefore, rejections of the subject matters expressed in claim 9 are met by references and associated arguments applied to rejections of claim 3.

All subject matters associated with method in claim 10 are disclosed in claim 1, and therefore, rejections of the subject matters expressed in claim 10 are met by references and associated arguments applied to rejections of claim 1.

All subject matters associated with method in claim 11 are disclosed in claims 5-6, and therefore, rejections of the subject matters expressed in claim 11 are met by references and associated arguments applied to rejections of claims 5-6.

All subject matters associated with method in claim 12 are disclosed in claim 2, and therefore, rejections of the subject matters expressed in claim 12 are met by references and associated arguments applied to rejections of claim 2.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final act.

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Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matsuichiro Shimizu whose telephone number is (703) 306-5841. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached on (703-305-4704). The fax phone number for the organization where this application or proceeding is assigned is (703-305-3988).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-8576).

Matsuichiro Shimizu

June 14, 2004

MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

